

Appln. No.: 10/707,993
Docket No.: 144213/GEM-0099

RECEIVED
CENTRAL FAX CENTER
NOV 06 2006

REMARKS / ARGUMENTS

The claims stand restricted as follows:

- I. Claims 1-15, allegedly drawn to a method of cardiac imaging by stimulation, classified in class 607, subclass 61.
- II. Claims 16-18, allegedly drawn to a device for imaging, classified in class 600, subclass 509.

Applicant hereby elects Group I, Claims 1-15, *with traverse*, respectfully traversing the Election / Restriction requirement for the following reasons.

Applicant has provided herewith a preliminary amendment to add genus linking Claim 20 that performs the method of Claim 1 and requires the particulars of the device of Claim 16.

The Examiner made the restriction requirement for reasons relating to the instant process of using (Claim 1) not requiring the particulars of the device (Claim 16) as evidenced by the language of Claim 1. Instant Office Action, page 2.

With entry of the preliminary amendment, Applicant submits that the restriction requirement is traversed for the following reasons.

A genus claim that links species claims, if allowable, acts to prevent restriction between inventions that can otherwise be shown to be divisible. The linking claims must be examined with the elected claims, and thus are considered part of the invention elected. Upon allowance of the elected invention, should any linking claims be allowable, the restriction requirement between the linked inventions must be withdrawn, and any claim directed to the non-elected invention, previously withdrawn from consideration, which depends from or requires all the limitations of the allowable linking claim must be rejoined and fully examined for patentability. MPEP 809.

In view of the foregoing, Applicant submits that the genus linking claim necessarily becomes part of the elected claims, and therefore must be examined, which Applicant submits is likely to include a search of class 600, subclass 509.

In view of the elected and genus linking claims resulting in a search of class 607, subclass 61, and in a search of class 600, subclass 509, Applicant submits that the serious burden on the Examiner has been lifted through application of procedures available via MPEP 809, thereby providing the Examiner with search results applicable to the non-elected Claims 16-18 of Group-II.

Appln. No.: 10/707,993
Docket No.: 144213/GEM-0099

In view of search results likely to be applicable to examination of both Groups I and II, Applicant submits that restriction of Groups I and II for examination purposes is improper.

For at least this reason, the Restriction Requirement dated October 6, 2006, is wholeheartedly traversed, and removal of the Requirement, at least with respect to the improper groupings noted above, is respectfully requested. As always, the Examiner is cordially invited to contact the undersigned by telephone to resolve any issues that remain.

In the event the Examiner maintains that the election/restriction requirement is proper, Applicant understands that the scope of search for examination purposes of the elected claims will not include class 600, subclass 509. In the event of reconsideration by the Examiner to include a search of class 600, subclass 509, for examination of the elected claims, Applicant respectfully requests reinstatement of the non-elected claims, as the burden on the Examiner (relating to a search of an additional class/subclass) would have been removed under the Examiner's own initiative.

Consideration and allowance of these claims are respectfully requested. The foregoing is believed to be fully responsive to this office action.

Applicant reserves the right to request rejoinder of the non-elected claims in the event of allowance of a linking claim.

Appln. No.: 10/707,993
Docket No.: 144213/GEM-0099

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 07-0845. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above identified Deposit Account.

Respectfully submitted,
CANTOR COLBURN LLP
Applicant's Attorneys

By: 

David Arnold
Registration No: 48,894
Customer No. 23413

Address: 55 Griffin Road South, Bloomfield, Connecticut 06002
Telephone: (860) 286-2929
Fax: (860) 286-0115